

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PACIFIC INDEMNITY COMPANY
15 Mountain View Road
Warren, NJ 07061-1615

Plaintiff,

v.

ALFRED KEMP, Individually and d/b/a
KEMP PLUMBING
P.O. Box 1322
Pembroke, MA 02359

and

MARTIN SANDBORG, Individually and d/b/a
SANDBORG PLUMBING AND HEATING
13 Liberty Street
Sandwich, MA 02563,

Defendants.

C.A. No.: 04-11975-RWZ
BBO # 552588

**DEFENDANT'S, ALFRED KEMP, INDIVIDUALLY AND D/B/A KEMP
PLUMBING, MOTION IN LIMINE TO PRECLUDE TESTIMONY FROM
PLAINTIFF'S EXPERT THOMAS KLEM WITH REQUEST FOR ORAL
ARGUMENT**

Defendant Alfred Kemp, Individually and d/b/a Kemp Plumbing ("Kemp"), respectfully moves the Court for an Order precluding the anticipated testimony of plaintiff's expert, Thomas Klem, or, in the alternative, requests a Daubert hearing as to the reliability of such testimony. As grounds therefore, Kemp states that, if offered, such testimony would be entirely speculative and would not meet the reliability test set forth in Fed. R. Evid. 702 and established in Daubert v. Merrell Dow Pharmaceuticals, Inc., 509

U.S. 579, 589 (1993) and Kumho Tire Company, Ltd. v. Carmichael, 526 U.S. 137 (1999). In further support of this motion, Kemp relies upon the Memorandum in Support of Defendant's Alfred Kemp, Individually and d/b/a Kemp Plumbing, Motion in Limine to Preclude Testimony from Plaintiff's Expert Thomas Klem filed herewith.

Pursuant to Local Rule 7.1(A)(2), this will certify that counsel have conferred and have attempted in good faith to resolve or narrow the issues raised by this Motion.

WHEREFORE, Alfred Kemp, Individually and d/b/a Kemp Plumbing, requests this Court preclude expert testimony from Thomas Klem, or, in the alternative, requests a Daubert hearing as to the reliability of any such testimony, together with such other and further relief the Court deems just and proper.

REQUEST FOR ORAL ARGUMENT

The defendant, Alfred Kemp, Individually and d/b/a Kemp Plumbing, hereby requests oral argument pursuant to Local Rule 7.1(D) on this Motion.

Respectfully submitted,
The Defendant,
ALFRED KEMP, Individually and
d/b/a KEMP PLUMBING
By his attorney,

/s/ Christopher G. Betke
Christopher G. Betke, BBO# 552588
Ryan, Coughlin & Betke, LLP
175 Federal Street
Boston, MA 02110
(617) 988-8050

CERTIFICATE OF SERVICE

I, Christopher G. Betke, hereby certify that on March 20, 2007, I served a copy of the within document via electronic filing to: Matthew H. Feinburg, Esq., Feinberg & Kamholtz, 125 Summer Street, 6th Floor, Boston MA 02110; Daniel Q. Harrington, Esq., Cozen & O'Connor, 1900 Market Street 3rd Floor, Philadelphia, PA 19103; Philip Tierney, Esq., Finnegan, Underwood, Ryan & Tierney, 22 Battery March Street, Boston, MA 02109.

/s/ Christopher G. Betke

Christopher G. Betke